

Document No.3941
Voted at Meeting of 5/22/80
BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF E.T.C. DEVELOPMENT CORPORATION FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER. ED.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A NON-PROFIT CORPORATION ORGANIZED PURSUANT TO M.G.L., C. 180 AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT NON-PROFIT CORPORATION UNDER SAID CHAPTER 121A.

A. The Hearing. A public hearing was held at 2:00 p.m. on May 1, 1980 in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application dated April 17, 1980, (hereinafter called the "Application"), filed by E.T.C. Development Corporation for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on April 21, 1980, and April 28, 1980 in the Boston Herald American, a daily newspaper of general circulation published in Boston and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. James G. Colbert, James K. Flaherty, Joseph J. Walsh, and James E. Cofield, Jr., members of the Authority, were present at the hearing.

B. The Project. The Project Area consists of eleven parcels of land in the area bounded by West Newton Street, Drapers Lane, Newland Street, Upton Street, Pelham Street, West Dedham Street and Shawmut Avenue in the South End of Boston. The Project Area is shown on Exhibit A, and B to the Application and identified as 19b-1 to 19b-11 on Parcel Delivery Plans on file with the Authority.

The Project for which the Authority's authorization and approval are sought consists of the purchase of the Project Area from the Authority and the construction, operation and maintenance therein of approximately 190 units of low and moderate income housing, together with commercial and community space on the ground floor of the building on parcel 19b-8, all in accordance with the terms of the South End Urban Renewal Plan and the terms of a proposed contract between the Authority and the Owner, a copy of which, with the attachments, is attached to the Application as Exhibit 7.

Of the approximately 190 units of housing, it is estimated that 10 will be one bedroom units; 121 will be two bedroom units; 34 will be three bedroom units; 22 will be four bedroom units; 2 will be five bedroom units and 1 will be a six bedroom unit.

The Project will include the rehabilitation of the buildings located on West Newton and Paseo San Juan in Parcel 19b-4 to include 31 units and the construction in the remaining Parcels of three and four level masonry and stucco structures to contain the balance of the units.

The Applicant proposes to commence construction within ninety (90) days after conveyance from the Authority with an estimated eighteen (18) month construction period.

Tenant amenities will include approximately 6,000 square feet of community space on West Dedham Street, two new play areas, two community gardens and the continuation of a pedestrian walkway between the neighborhood's principal recreation area, Plaza Betances and the O'Day Playground. Further, the Applicant shall provide one-hundred and twenty three (123) parking spaces for the Project Area, sixty eight (68) on-street and fifty five (55) off-street spaces. The Applicant has received a commitment from the United States Department of Housing and Urban Development to provide Section 8 rental subsidy funds to the Applicant for one hundred and ninety (190) dwelling units for low and moderate income families.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing, and arguments and statements made at the hearing.

D. Project Area. The Project as defined in the Application constitutes a "Project" within the meaning of Section 1 of Chapter 121A of the General Laws, providing, as it does, for the acquisition, rehabilitation and construction in a blighted open, decadent and substandard area of decent, safe, and sanitary housing for low and moderate income families.

Pursuant to Chapter 121B of the General Laws, the South End Urban Renewal Area, which includes the Project Area, has been declared by the Authority to be blighted open, substandard and decadent. Such determination was made by the Authority in its "South End Urban Renewal Plan" approved by the Authority on September 23, 1965, by the Boston City Council on December 6, 1965, by the Mayor of Boston on December 7, 1965, and by the Massachusetts Department of Community Affairs on January 15, 1966.

More specifically, the Authority voted unanimously on May 2, 1962 to adopt a resolution declaring that the South End Urban Renewal Area was "an area which is detrimental to safety, health, morals, welfare and the sound growth of the Boston community because of the existence of buildings which are out of repair, physically deteriorated, unfit for human habitation, obsolete or in need of major maintenance and repair, and because buildings have been torn down and not replaced and in which under existing conditions it is improbable that the buildings will be replaced." The Authority also found that it was "improbable that the area will be redeveloped by the ordinary operations of private enterprise."

Many of the buildings within and adjacent to the Project Area are uninhabitable and abandoned and constitute fire, safety and health hazards. Many of the neighborhood buildings that are occupied are dilapidated, over-crowded or lack adequate sanitation. A part of the Project Area is an open area where buildings have been torn down and are not likely to be replaced by the normal action of private enterprise

because of economic conditions.

In particular, the blighted condition of the Project Area has created a security and personal safety problem for residents of surrounding neighborhoods. The existence of vacant buildings has attracted drug traffic and vandalism. The area has suffered from numerous fires to abandoned buildings.

The Site would not be developed without the real estate taxes being limited to a percentage of the project's estimated gross annual income, evidenced by the requirement of the mortgage lender attached to the Application. Percentage levels as a basis for taxation can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A Section 6A. The amounts to be paid in lieu of real estate taxes by the Applicants are set forth in the Application. There shall be paid to the City of Boston a percentage payment in lieu of real estate taxes, in each of the forty (40) calendar years after approval of the Project. It is hereby found that the Project Area is a blighted open, decadent and substandard area within the meaning of G.L. Chapter 121A as amended, and further, the conditions and other factors referred to in the Application and in this Report and Decision warrant the carrying out of the Project in accordance with said General Law. It is unlikely that the conditions will be remedied by the ordinary operations of private enterprise.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable.

The estimated minimum cost of the Project is approximately \$12,000,000. The Project will be financed through a HUD-insured mortgage loan, with additional financing provided by the Applicant. The Conditional Commitment for mortgage insurance from HUD is included as Exhibit 5 hereto. Rental subsidies will be provided under the HUD Section 8 program.

The only persons, natural or corporate, who, prior to the completion of the Project, have or will have, directly or indirectly, any beneficial interest in the Project, are as follows:

- The Applicant and partners and affiliates of the Applicant.
- Victoria Associates
- The Authority
- U.S. Department of Housing and Urban Development
- Mortgage lenders or person who may acquire from or through such lenders.

Experience with similar financing and organization methods persuades the Authority that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston as the Project Area comes within a classification in the Master Plan which permits buildings and uses of the kind proposed by the Applicants.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City of Boston or to the public safety and convenience and is not inconsistent with the most suitable development of the Project Area neighborhood or of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The Plans

of the structure to be rehabilitated and constructed on the Project Site have been reviewed by the Design Review Staff of the Authority. The Authority finds that this Project will enhance the general appearance of the Area and will furnish attractive and necessary landscaping and provide much needed low and moderate income housing in the South End Urban Renewal Area. The Project will have a positive economic impact on the neighborhood surrounding the Project Area and on the City of Boston. During construction of the Project, the Project general contractor will be required, to the best of its ability, to grant preference in hiring to Boston residents.

H. Environmental Considerations.

1. The project will require land taking from an existing City playground, which will be replaced by a considerably greater amount of recreational open space within the project area.
2. The Project will not adversely affect any archaeological or historical site, structure, or feature; rather it is expected that the Project will enhance the historic features of the area, and will preserve structures which are included in the South End National Register District.
3. The Project will not adversely affect any significant natural or man-made feature or place but is determined to be compatible with the surrounding environment.
4. Being located in an urban area, the Project will not affect any wilderness area or area of significant vegetation and will not adversely affect any rare or endangered fisheries, wildlife or species of plants.
5. The Project will not alter or adversely affect any flood hazard area, inland or coastal wetland, or any other geologically unstable area.
6. The Project will not involve the use, storage, release, or disposal of any potentially hazardous substances.

7. The Project will not affect the potential use or extraction of any agricultural, mineral, or energy resources.
8. The Project will not result in any significant increase in consumption of energy or generation of solid waste.
9. The Project will not adversely affect the quantity or quality of any water resources and will not involve any dredging.
10. Except necessarily during the construction phase, the Project will not result in the generation of a significant amount of noise, dust, or other pollutants, and will not adversely affect any sensitive receptors.
11. The Project will not adversely affect any area of important scenic value or any aesthetic values in the surrounding area.
12. The Project will not conflict with any Federal, State, or local land use, transportation, open space, recreation, and environmental plans and policies.
13. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such a manner as will cause damage to the environment.

In order to avoid or minimize any damage to the environment, the Authority hereby requires that the applicant comply with the City of Boston Air Pollution Control Commission's Regulation for the Control of Noise and Regulations for the Control of Atmospheric Pollution during all phases of construction activity. Furthermore, if the rehabilitation involves any abrasive blasting of interior or exterior surfaces, the contractor must submit an application for an Abrasive Blasting Permit to the City of Boston Air Pollution Control Commission prior to initiation of such activity.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in Exhibit 14 filed with and attached to the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Exhibit 14, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate; (2) submit to the Authority for its review and approval all plans and specifications for the Project's the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate, and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require the grant of a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a church.

The Project Area does not include land within any location approved by the Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

The Project does not involve the construction of units which constitute a single building under the State Building Code and zoning Laws, G.L. c.138.

The Authority as the owner of the premises at 4 Newland Street is presently making final arrangements for the relocation of one family to a suitable residence. The carrying out of the Project will not otherwise involve the destruction or rehabilitation of buildings presently occupied in whole or in part as dwellings.

J. Zoning Code Deviations. Exhibit 10 to the Application lists the zoning code deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority finds that the deviations attached hereto and incorporated by reference as Exhibit A are necessary for the carrying out of the total project and may be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations respectively. Such deviations are hereby granted.

K. Duration of Period of Tax Exemption. The Applicant requests an extension of twenty five (25) years to the base term of fifteen (15) calendar years for the Project's period of tax exemption pursuant to Section 10 of Chapter 121A, providing as it does for such extension for housing for persons of low and moderate income.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions as set forth above.

Further, the Applicant has requested and the Authority hereby

consents to the transfer of the Applicant's interest in the Project to Victoria Associates, a Massachusetts limited partnership. The Authority determines that Victoria Associates has the ability requisite to perform the obligations and carry out the duties imposed by G.L. Chapter 121A with respect to the Project. The Applicant shall give 48 hour prior written notice to the Authority in a form suitable for recording with the City Clerk of the proposed effective date of the transfer.

EXHIBIT A
ZONING CODE DEVIATIONS

The following is a statement of all permissions which, so far as known to the Applicants, will be required for the Project to deviate from the Boston Zoning Code:

The buildings referred to herein are shown on the plans on file with the Boston Redevelopment Authority entitled "E.T.C. 'VIVIENDAS LA VICTORIA' II," dated January 11, 1980, prepared by John Sharratt Associates, Inc.

I. Parcel 19b-1 (Buildings D, E, F):

Permission to deviate from the requirement of Section 23-1 of 14 parking spaces for the residential use proposed for the parcel. A total of not less than 14 parking spaces (not counted for the purposes of analysis for any other parcel in the Project) will be provided on the adjacent Paseo San Juan (a loop access street into the Project Area) and on the adjacent portion of West Brookline Street between Newland Street and Paseo San Juan.

II. Parcel 19b-2 (Buildings A, A rev.):

Permission to deviate from the requirement of Section 23-1 of 17 parking spaces for the proposed residential use of the parcel. A total of not less than 17 parking spaces (not counted for the purposes of analysis for any other parcel in the Project) will be provided on the adjacent Paseo San Juan and Paseo Aquadilla (loop streets providing access into the Project Area).

III. Parcel 19b-3 (Building B):

Permission to deviate from the requirement of Section 23-1 of 7 parking spaces for the residential use proposed for the parcel. A total of not less than 7 parking spaces (not counted for the purposes of analysis for any other parcel in the Project) will be provided on the adjacent Paseo Aquadilla and on the portion of West Brookline Street which is adjacent to the parcel.

IV. Parcel 19b-4 (Buildings G, G rev., and Rehab Buildings 1-8):

A. Permission to deviate from Section 8-7, Table A, Use Item No. 8 ("Any dwelling converted for more families") to the extent needed to allow eight existing buildings on the parcel to be rehabilitated to provide a total of 31 dwelling units.

B. Permission to deviate from the requirement of Section 23-1 of 23 parking spaces for the residential use proposed for the parcel. A total of six parking spaces will be provided on the lot. A total of at least 17 parking spaces (not counted for the purposes of analysis for any other parcel in the Project) will be provided on Paseo San Juan (a loop street providing access into the Project Area).

V. Parcel 19b-5 (Building C):

A. Permission to deviate from the requirement of Sections 13-1 and 18-1 of a 20 foot front yard within which no structures shall be erected other than those specified in Section 18-1. Permission to deviate from Section 18-2 (conformity with existing building alignment), to the extent that Section 18-2 may be applicable, is also requested. A front yard of 10 feet will be provided into which stairs extending higher than 3 feet above the floor of the first story will project and in which plantings (other than shade trees) over 5 feet in height may be located.

B. Permission to deviate from the side yard requirements of Sections 13-1 and 19-1 and any other sections which may apply. The northerly side yard (abutting the existing private passageway) will measure not less than 4 feet. A meter enclosure may project into this side yard. The southerly side yard (abutting O'Day Playground) will measure not less than 17 feet; stairs extending to a height of greater than 3 feet above the floor of the first story will project not more than 10 feet from the building wall into this side yard.

C. Permission to deviate from the rear yard requirements of Sections 13-1, 20-1 and 20-3. A rear yard of not less than 17 feet will be provided, which exceeds the depth required (approximately 14.34 feet). Stairs extending to a height of greater than 3 feet above the floor of the first story will project into the required rear yard to a distance of up to 9 feet from the rear lot line; fences greater than 6 feet in height may be provided within the required rear yard.

D. Permission to deviate from the setback from the rear lot line required by Section 13-1 and Article 21.

E. Permission to deviate from the requirement of Section 23-1 of 6 parking spaces for the residential use proposed for the parcel. A total of not less than 6 parking spaces (not counted for the purposes of analysis for any other parcel in the Project) will be provided on the adjacent Paseo Aquadilla, a loop street providing access into the Project Area.

VI. Parcel 19b-6 (Building H):

A. Permission to deviate from Section 10-1 which provides 1) that accessory uses, exclusive of the off-street parking required by the Zoning Code, may not occupy more than 25% of the required rear yard or of the unbuilt area of the lot, and 2) that in residential districts no accessory uses shall occupy required front or side yards except that off street parking required by the Zoning Code may be located in side yards if such parking is not within 5 feet of a side lot line. Nine parking spaces, only 4 of which are required for the residential use proposed for the parcel, will be located at the northerly portion of the lot adjacent to Newland Street. The parking area will cover the entire area of the lot from the Newland Street lot line to a parallel line lying 32 feet inside the lot line. The area allocated to the parking spaces not required by the Zoning Code will occupy more than 25% of the unbuilt area of the lot.

B. Permission to deviate from the front yard requirement of Sections 13-1 and 18-1 of a 20 foot front yard within which no structures shall be erected other than those specified in Section 18-1. Permission to deviate from Section 18-2 (conformity with existing building alignment), to the extent that Section 18-2 may apply, is also requested. A front yard of not less than 10 feet will be provided at the Shawmut Avenue side of the lot; stairs extending to a height greater than three feet above the floor of the first story will project into this yard.

C. Permission to deviate from the side yard requirements of Sections 13-1, 19-1 and any other sections which may be applicable. No side yard will be provided along the easterly side yard line. A side yard measuring not less than 11 feet at its narrowest width will be provided along the westerly side lot line. Projections into this side yard will include a screening wall 7 feet in height extending from the face of the building to the side lot line and a meter enclosure. In addition, the existing stairs to the existing building on the adjacent lot will encroach into a wide portion of this side yard which portion will measure not less than 18' in width.

D. Permission to deviate from Sections 18-4, 19-1 and 20-1 to the extent needed to allow fences greater than 6 feet in height to be located within the yard adjacent to Newland Street.

VII. Parcel 19b-8 (Buildings M, N):

A. Permission to deviate from Section 8-7, Table A to allow all or part of the floor area of the basement and first floor of Building N (fronting West Dedham Street) to be devoted 1) to community uses (including but not limited to cultural center, youth recreation center, or health center), to the extent that such uses may not be allowed as of right pursuant to Use Item No. 29 or other provisions of the Zoning Code; and/or 2) to uses described in Use Item No. 30 (private club), No. 34 ("Store primarily serving the local retail business needs of the neighborhood..."), No. 37 ("Lunch room, restaurant, or cafeteria..."), Nos. 39, 40, 41 (offices), and No. 43 ("Barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry cleaner; or similar use"), to the extent that such uses may not qualify as permitted accessory uses by virtue of Section 10-1 (limitation of area) or Section 8-7, Table A, Use Item No. 85 (accessory uses), or Section 8-8(a) (accessory uses to housing developments).

B. Permission to deviate from Section 11-1 to the extent needed to permit the provision of on-premises signs in connection with the proposed community and/or commercial uses of Building N.

VIII. Parcel 19b-10 (Buildings K, L):

Permission to deviate from the requirement of Section 23-1 of 12 parking spaces for the residential use proposed for the parcel. A total of 9 off-street parking spaces will be provided on the parcel.

MAY 22, 1980

MEMORANDUM

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A APPLICATION
OF E.T.C. DEVELOPMENT CORPORATION

On May 1, 1980, the Authority conducted a public hearing with respect to the above-captioned Application.

The Project consists of the acquisition of the Project Area, rehabilitation, construction, operation and maintenance of approximately one hundred and ninety (190) units of low and moderate income housing together with commercial and community space on the ground floor.

The Staff has examined the Application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate Vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision on The Application of E.T.C. Development Corporation, for the Authorization and Approval of a Project under Massachusetts General Laws (Ter. Ed.) Chapter 121A, As Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and carried out by a Nonprofit Corporation Organized Pursuant to M.G.L., C. 130 and Approval to Act as an Urban Redevelopment Nonprofit Corporation Under said Chapter 121A" be and hereby is approved and adopted.